

MAIL TO:

STATE OF UTAH
 DIVISION OF PURCHASING
 3150 STATE OFFICE BUILDING, CAPITOL HILL
 P.O. BOX 141061
 SALT LAKE CITY, UTAH 84114-1061
 TELEPHONE (801) 538-3026
<http://www.purchasing.state.ut.us>

Request for ProposalSolicitation Number: **LK3908**Due Date: **12/17/2002@3:00PM**

Date Sent: November 29, 2002

Goods and services to be
 purchased:

STATEWIDE CONTRACT FOR WATER TREATMENT**Please complete**

Company Name		Federal Tax Identification Number	
Ordering Address		City	State Zip Code
Remittance Address (if different from ordering address)		City	State Zip Code
Type <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government		Company Contact Person	
Telephone Number (include area code)	Fax Number (include area code)	Email Address	
Discount Terms(for bid purposes, bid discounts less than 30 days will not be considered)		Days Required for Delivery After Receipt of Order (see attached for any required minimums)	
Brand/Trade Name		Price Guarantee Period (see attached specifications for any required minimums)	
Minimum Order		Company's Internet Web Address	

The following documents are included in this solicitation: Solicitation forms, instructions and general provisions, and specifications. Please review all documents carefully before completing.

The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes_____ No_____. If no, enter where produced, etc._____

Offeror's Authorized Representative's Signature	Print or type name and title	Date
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STATE OF UTAH
DIVISION OF PURCHASING

Request for Proposal

Solicitation Number: LK3908

Due Date: 12/17/2002

Vendor Name:

State of Utah Division of Purchasing Approval	Date	Contract Number
Douglas G. Richins, Director		

STATEWIDE CONTRACT FOR WATER TREATMENT PER ATTACHED SPECIFICATIONS.

REQUEST FOR PROPOSAL - INSTRUCTIONS AND GENERAL PROVISIONS

1. **PROPOSAL PREPARATION:** (a) All prices and notations must be in ink or typewritten. (b) Price each item separately. Unit price shall be shown and a total price shall be entered for each item bid. (c) Unit price will govern, if there is an error in the extension. (d) Delivery of services as proposed is critical and must be adhered to. (e) Incomplete proposals may be rejected. (f) This proposal may not be withdrawn for a period of 60 days from the due date. (g) Where applicable, all proposals must include complete manufacturer's descriptive literature. (h) By signing the proposal the offeror certifies that all of the information provided is accurate, that they are willing and able to furnish the item(s) specified, and that prices offered are correct.
2. **SUBMITTING THE PROPOSAL:** (a) The proposal must be signed in ink, sealed, and if mailed, mailed in a properly-addressed envelope to the DIVISION OF PURCHASING, 3150 State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061. **The "Solicitation Number" and "Due Date" must appear on the outside of the envelope.** (b) Proposals, modifications, or corrections received after the closing time on the "Due Date" will be considered late and handled in accordance with the Utah Procurement Rules, section 3-209. (c) **Your proposal will be considered only if it is submitted on the forms provided by the state. Facsimile transmission of proposals to DIVISION will not be considered.** (d) All prices quoted must be both F.O.B. Origin per paragraph 1.(c) and F.O.B. Destination. Additional charges including but not limited to delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose must be included in the proposal for consideration and approval by the Division of Purchasing & General Services (DIVISION). Upon award of the contract, the shipping terms will be F.O.B. Destination, Freight Prepaid with freight charges to be added to the invoice unless otherwise specified by the DIVISION. No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose will be paid by the state unless specifically included in the proposal and accepted by DIVISION. (e) By signing the proposal the offeror certifies that all of the information provided is accurate and that he/she offers to furnish materials/services for purchase in strict accordance with the requirements of this proposal including all terms and conditions.
3. **BONDS:** The state has the right to require a bid or proposal bond, payment bond and/or a faithful performance bond from the offeror in an amount not to exceed the amount of the contract.
4. **PROPRIETARY INFORMATION:** Suppliers are required to mark any specific information contained in their bid which is not to be disclosed to the public or used for purposes other than the evaluation of the bid. Each request for non-disclosure must be accompanied by a specific justification explaining why the information is to be protected. Pricing and service elements of any proposal will not be considered proprietary. All material becomes the property of the state and may be returned only at the state's option. Proposals submitted may be reviewed and evaluated by any persons at the discretion of the state.
5. **BEST AND FINAL OFFERS:** Discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements. Prior to award, these offerors may be asked to submit best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by a competing offeror.
6. **SAMPLES:** Samples, brochures, etc., when required, must be furnished free of expense to the state and if not destroyed by tests may, upon request made at the time the sample is furnished, be returned at the offeror's expense.
7. **DIVISION APPROVAL:** Contracts written with the State of Utah, as a result of this proposal, will not be legally binding without the written approval of the Director of the DIVISION.
8. **AWARD OF CONTRACT:** (a) The contract will be awarded with

reasonable promptness, by written notice, to the lowest responsible offeror whose proposal is determined to be the most advantageous to the state, taking into consideration price and evaluation factors set forth in the RFP. No other factors or criteria will be used in the evaluation. The contract file shall contain the basis on which the award is made. Refer to Utah Code Annotated 65-56-21. (b) The DIVISION can reject any and all proposals. And it can waive any informality, or technicality in any proposal received, if the DIVISION believes it would serve the best interests of the state. (c) Before, or after, the award of a contract the DIVISION has the right to inspect the offeror's premises and all business records to determine the offeror's ability to meet contract requirements. (d) The DIVISION will open proposals publicly, identifying only the names of the offerors. Proposals and modifications shall be time stamped upon receipt and held in a secure place until the due date. After the due date, a **register** of proposals shall be established. The **register** shall be open to public inspection, but the proposals will be seen only by authorized DIVISION staff and those selected by DIVISION to evaluate the proposals. The proposal(s) of the successful offeror(s) shall be open for public inspection for 90 days after the award of the contract(s). (e) Utah has a reciprocal preference law which will be applied against bidders bidding products or services produced in states which discriminate against Utah products. For details see Section 63-56 20.5 -20.6, Utah Code Annotated.

9. **ANTI-DISCRIMINATION ACT:** The offeror agrees to abide by the provisions of the Utah Anti-discrimination Act, Title 34 Chapter 35, U.C.A. 1953, as amended, and Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities. Also offeror agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace. Vendor must include this provision in every subcontract or purchase order relating to purchases by the State of Utah to insure that the subcontractors and vendors are bound by this provision.

10. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah applies to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgement to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise

have under this contract.

11. **DEBARMENT:** The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the STATE.

12. **GOVERNING LAWS AND REGULATIONS:** All State purchases are subject to the Utah Procurement Code, Title 63, Chapter 56 Utah Code Annotated 1953, as amended, and the Procurement Rules as adopted by the Utah State Procurement Policy Board (Utah Administrative Code Section R33). These are available on the Internet at www.purchasing.state.ut.us.

(Revision 2/14/2000 - RFP.Instructions)

REQUEST FOR CHEMICAL WATER TREATMENT PROPOSAL

The State of Utah is seeking to enter into a multiple award contract with companies that can best serve its chemical water treatment requirements in the maintenance of cooling towers, steam boilers, hot and chilled closed water systems, and evaporative coolers. The State of Utah desires:

1. That all systems remain free of deposits as a first step to achieving the most economical operation possible. Equipment maintenance should focus on achieving maximum equipment output with minimum use of electricity, chemicals, gas/oil, and water.
2. That a maintenance strategy is developed that is simple, results oriented, effective, and safe so units in less populated areas can achieve results and costs near equal to units in the more densely populated areas.
3. That where systems may have become fouled, a safe effective cleanup program is available.
4. The contractor or contractors selected must have a minimum of five (5) years in the chemical water treatment business.
5. The State of Utah in order to allow for new technologies to be considered contractor should:
 - a. Provide an explanation of how it works.
 - b. Include "Mass Balance" explanation.
 - c. Provide list of users, both successful and non-successful.
 - d. Complete this RFP response in order to be considered for award.
6. Successful contractors shall upon owners request, evaluate the benefits of bypass filtering on evaporative cooling equipment larger than 12,000 cfm with 8" thick fill, and provide recommendations to owner.

Selection of the successful contractor or contractors will be based on:

1. Offering of the contractor to provide chemical treatment for each type of equipment listed.
2. Which offering (a) calculates to be the most cost effective, and (b) offers the greatest potential to produce uniform results at all equipment locations (c) Conserves electricity, gas/oil, water (d) Offers lowest exposure to discharging hazardous or toxic chemicals
1. Which offering has the greatest potential for success when applied by people with average mechanical skills?
2. Referrals of customers. Contractor shall provide a referral list with contact information including location and telephone numbers or email addresses for all types of systems that are part of this RFP, vital information on type of systems and treatments used to obtain peak results. This information will be used to evaluate customer satisfaction with products and customer support for services provided by contractor.
3. Contractors shall describe procedures required for successful testing and analysis of each system type.
4. Contractors to include cost breakdowns for the following:
 - a. Consultation services by telephone and for on-site consulting in all regions and areas of the State.

- b. On-site training costs for Wasatch front and remote areas of the State.
 - c. Cost of equipment necessary for conversion and treatment of systems, i.e. (injection pumps etc).
 - d. Costs associated with testing and analysis of water or other liquids utilized in the various systems. Include breakdown of all equipment and consumables necessary. Price as a typical monthly invoice.
 - e. Provide a price list of meters in various sizes of commercial quality standards, available through the vendor. (These meters are to be used in determining rate of flow or consumption of water or other consumables used in determining proper concentration and calibration of treatment systems).
 - f. Chemicals used in treatment systems in units of gallon, five (5) gallon, thirty (30) gallon and fifty-five (55) gallon units. (This information is to be placed in a tabular spreadsheet showing manufacturers identifier or name. Include MSDS classification and number, describe proper use of this chemical and systems in which it would be used, also include % concentration of chemicals or recommended dilution with water).
 - g. Routine service costs in units, include charges for work hours and after hours.
 - h. Restocking fees and shipping costs FOB Salt Lake City for various chemicals and quantities in the units described in section "f" listed above.
5. Contractors shall provide company profile and include experience and credentials of staff assigned to state accounts. Contractors must have been in business a minimum of five (5) years. Submit documentation with proposal.
6. Define all field office locations available to support remote State agencies with consulting services and locally warehoused chemicals.

The following examples are given to collect basic information. Feel free to add explanations you feel would help those evaluating your offering.

COOLING TOWER TREATMENT

Given: 300 ton cooling tower, 350 ppm total alkalinity, 250 ppm total hardness, 50 ppm silica, pH of make-up is 7.5. System averages 50% load over 30.4 days/month. Water costs \$1.00/1,000 gallons, sewer costs \$1.50/1,000 gallons. System is a galvanized cooling tower installed at ground level and connected to a centrifugal chiller with black iron pipes. Tower is newly installed, no feed equipment of other maintenance accessories were included.

Describe:

- 1. Chemicals and equipment required for automatic control of scale, corrosion, and biological fouling. Include MSDS sheets.
- 2. Maintenance accessories that are valuable to help keep a system clean. Include descriptive data.
- 3. How you can help minimize water cost and loss.
- 4. Frequency of service you recommend to achieve expected results.
- 5. In between contractor calls, what service is required from maintenance personnel? (Include frequency and time spent testing).
- 6. Maintenance personnel exposure to and required handling of chemicals.

7. Data to be recorded from operating equipment to monitor heat exchange efficiency. Needed so treatment adjustments can be made to correct fouling.
8. Quote cost/Rated ton or cost/Month.

STEAM BOILER WATER TREATMENT

Most steam boiler systems are composed of a boiler connected by pipes, valves, automatic controls, and steam traps. A malfunction in any part of the system impacts operating costs. Failed steam traps are the source of significant energy losses because BTUs in the steam are vented to the atmosphere instead of being used in the building. Repairing steam traps in a timely manner will make a significant impact on the energy conservation goals of the State of Utah.

Since leaking steam traps have such an impact on boiler water treatment, explain if there is any way data from your steam treatment program can help determine which boiler has leaking steam traps.

Given: 150 Hp boiler operating at 7 pounds pressure, make-up water with 250 ppm total hardness, 250 ppm total alkalinity, 400 ppm TDS. Natural gas @ \$0.32/therm, boiler efficiency @ 0.785. Water cost @ \$1.00/1,000 gallons. This is a new system, no control equipment installed.

- Describe:
1. It is desirable that chemicals are added with pumps to assure proper application and minimize injury potential resulting from frequent handling of chemicals. Show cost of equipment you recommend.
 2. Both blow down and condensate loss requires extra boiler make-up. Calculate required gas, water, and chemical costs/month associated with that additional make-up. Based on your blow down and: (a) 2% condensate loss, (b) 5% condensate loss, and (c) 10% condensate loss.
 3. Steam line treatment chemicals are volatile to assure they leave the boiler with the steam. Show pressure/temperature volatility profile for recommended steam line treatment.
 4. Quote cost/HP or cost/Month

Indicate frequency you would need to visit the job site and describe what testing or logging of data would be required of maintenance personnel responsible for the equipment.

CLOSED HOT AND CHILLED WATER SYSTEMS

A closed system is often defined as a system where heating or cooling is accomplished through heat exchange rather than through evaporation or condensation. Closed systems are often defined as a circulating system that will not lose more than 5% of its water volume per year.

We believe that some of the closed systems the State of Utah has in operation may need cleaning to increase heat transfer efficiency. In HVAC systems restricted heat transfer increases chiller or boiler operating time for higher

energy costs.

- Describe:
1. What technology your company uses to identify the symptoms showing a closed system is very likely fouled.
 2. Products and procedures for removing deposits of scale, corrosion, and biological fouling from: (a) glycol filled systems, (b) hot water systems, and (c) chilled water systems
 3. Recommendations for controlling biological fouling in closed systems.
 4. Quote treatment costs/1,000 gallons water - hot and chilled systems

EVAPORATIVE COOLING

Evaporative coolers needing treatment ranging from small residential units with the high efficiency cooler fill to the large units used as central cooling for a whole building. The CFM might range from 3,000 to well over 100,000.

- Describe:
1. Assume a 5,000 CFM evaporative two-stage cooler using the high efficiency cooling media. Describe treatment of choice, cost of equipment needed, and project an operating cost. Assume 5 months of operation, 7 days/week, and 12 hours/day.
 2. Assume a 12" thick high efficiency evaporative cooler media in an air duct moving 100,000 CFM. Estimated cooling range 20 degrees F, make-up water has 250 ppm total hardness, 250 ppm total alkalinity, 30 ppm silica, 7.5 pH, total dissolved solids 450 ppm. Unit operates 7 months, 5 days/week, and 12 hrs/day.
 3. Price equipment needed to apply your treatment. Also: (a) show estimate of water expected for evaporation, (b) estimated water for bleed, (c) estimated chemical treatment cost, (d) Provide costs for drip or pump injected solutions, and (e) Provide a spreadsheet showing water consumption
 4. Quote in cost/Month with breakdowns as requested in #3 above.
 5. Describe how your treatment can function as an aid in the prevention of Legionnaire's Disease.

PROPOSAL EVALUATION SCORE SHEET

OFFEROR: _____

RATER'S NAME: _____

DATE: _____

EVALUATION CRITERIA	SCORE (check one)								COMMENTS
COMPANY EXPERIENCE (25PTS)	1	2	3	4	5	X	TOTAL		
A. YEARS OF EXPERIENCE						1			
B. TYPE OF EXPERIENCE						2			
C. QUALITY OF RESPONSE TO SCENERIOS						2			
PERSONNEL (25PTS)									
A. CERTIFICATIONS						1			
B. TRAINING- OFFERING INITIAL OR ONGOING						3			
C. LIST OF CUSTOMERS SERVICED IN THE LAST SIX MONTHS						1			
PRICE TO STATE (40 PTS)									Price will be calculated by State Purchasing via established formula
A. LOCAL WAREHOUSING						2			
B. BONDING/INSURANCE (\$5 MILLION MIN.)						2			
C. TRAINING/ LABOR PRICES						2			
D. MATERIAL PRICING (& OR PRICE LISTS)						2			
REFERENCES (10PTS)						2			
TOTAL POINTS									

SCORING: Will be based on a scale of zero to five with five being the highest possible and zero being the lowest.

FIVE: Excellent, has potential to produce high quality service.

FOUR: Above average, exceeds minimum in some areas.

THREE: Acceptable, meets minimum requirements of RFP.

TWO: Fair, partially unresponsive.

ONE: Inadequate, fails to meet perceived needs.

ZERO: Nonresponsive, not addressed in proposal.

I hereby certify that the points indicated above are an accurate reflection of my assessment of this proposal.

Standard Contract Terms and Conditions
State of Utah, Statewide Contracts
(Request for Proposals)

1. AUTHORITY: Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the STATE to purchase certain specified services, and other approved purchases for the STATE.

2. CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE: The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake Co.

3. LAWS AND REGULATIONS: Any and all supplies, services and equipment proposed and furnished will comply fully with all applicable Federal and State laws and regulations.

4. RECORDS ADMINISTRATION: The Contractor will maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records will be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years have been completed, whichever is later.

5. AUDIT OF RECORDS: The Contractor agrees to allow the State and Federal auditors, and State agency staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.

6. CONFLICT OF INTEREST: Contractor certifies that it has not offered or given any gift or compensation prohibited by the laws of the State of Utah to any officer or employee of the STATE or participating political subdivisions to secure favorable treatment with respect to being awarded this contract.

7. INDEPENDENT CONTRACTOR: Contractor will be an independent Contractor, and as such will have no authorization, express or implied to bind the STATE to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for the STATE, except as expressly set forth herein. Compensation stated herein will be the total amount payable to the Contractor by the STATE. The Contractor will be responsible for the payment of all income tax and social security tax due as a result of payments received from the STATE for these contract services. Persons employed by the STATE and acting under the direction of the STATE will not be deemed to be employees or agents of the Contractor.

8. HOLD HARMLESS: The Contractor will release, protect, indemnify and hold the STATE and the respective political subdivisions and their officers, agencies, employees, harmless from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the Contractor, his employees or subcontractors or volunteers.

9. EQUAL OPPORTUNITY CLAUSE: The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.

10. SEVERABILITY: If any provision of this contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and the rights and obligations of the parties will be construed and enforced as if the contract did not contain the particular provision held to be invalid.

11. AMENDMENTS: The terms of this contract will not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the State Director of Purchasing.

12. DEBARMENT: The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the STATE.

13. CANCELLATION: Unless otherwise stated in the special terms and conditions, any contract entered into as a result of this proposal may be canceled without cause by the STATE upon 60 days notice, in writing, prior to the effective date of the cancellation. Cancellation may be in whole or in part. Cancellation of the contract due to Contractor default may be immediate.

14. TAXES: Proposal prices will be exclusive of state sales, use and federal excise taxes. The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from STATE funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract, or contract orders. The State of

15. WARRANTY: The Contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The Contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the Contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the STATE has relied on the Contractor's skill or judgement to consider when it advised the STATE about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the STATE has not been warned. Remedies available to the STATE include the following: The Contractor will repair or replace (at no charge to the STATE) the product whose nonconformance is discovered and made known to the Contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

16. PARTICIPANTS: This is a contract to provide the State of Utah government departments, institutions, agencies and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) with the goods and/or services described in the proposal.

17. POLITICAL SUBDIVISION PARTICIPATION: Participation under this contract by political subdivisions (i.e., colleges, school districts, counties, cities, etc.) will be voluntarily determined by the political subdivision. The Contractor agrees to supply the political subdivisions based upon the same terms, conditions and prices.

18. QUANTITY ESTIMATES: The STATE does not guarantee to purchase any amount under the contract to be awarded. Estimated quantities are for proposing purposes only and are not to be construed as a guarantee to purchase any amount.

19. DELIVERY: The prices proposed will be the delivered price to any state agency or political subdivision. All deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the Buyer except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered will be shipped without charge.

20. REPORTS: The Contractor will submit quarterly reports to the State Purchasing Agent showing the quantities and dollar volume of purchases by each agency and political subdivision.

21. PROMPT PAYMENT DISCOUNT: Offeror may quote a prompt payment discount based upon early payment; however, discounts offered for less than 30 days will not be considered in making the award. The prompt payment discount will apply to payments made with purchasing cards and checks. The date from which discount time is calculated will be the date a correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, the date will be the date of acceptance of the merchandise.

22. FIRM PRICES: Unless otherwise stated in the special terms and conditions, for the purpose of award, offers made in accordance with this solicitation must be good and firm for a period of ninety (90) days from the date of proposal opening.

23. PRICE GUARANTEE, ADJUSTMENTS: The contract pricing resulting from this proposal will be guaranteed for the period specified. Following the guarantee period, any request for price adjustment must be for an equal guarantee period, and must be made at least 30 days prior to the effective date. Requests for price adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the contract will not be effective unless approved by the State Director of Purchasing. The STATE will be given the immediate benefit of any decrease in the market, or allowable discount.

24. ORDERING AND INVOICING: Orders will be placed by the using agencies directly with the Contractor. All orders will be shipped promptly in accordance with the delivery guarantee. The Contractor will then promptly submit invoices to the ordering agency. The STATE contract number and the agency ordering number will appear on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the STATE will be those prices on file with the Division of Purchasing. The STATE has the right to adjust any invoice reflecting incorrect pricing.

25. PAYMENT: Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance. Payments may be made via a State of Utah (or political subdivision) APurchasing Card.® All payments to the Contractor will be remitted by mail unless paid by Purchasing Card.

26. MODIFICATION OR WITHDRAWAL OF PROPOSALS: Proposals may be modified or withdrawn prior to the time set for the opening of proposals. After the time set for the opening of proposals, no proposals may be modified or withdrawn.

27. PROPOSAL PREPARATION COSTS: The STATE is not liable for any costs incurred by the offeror in proposal preparation.

28. INSPECTIONS: Goods furnished under this contract will be subject to inspection and test by the Buyer at times and places

determined by the Buyer. If the Buyer finds goods furnished to be incomplete or not in compliance with proposal specifications, the Buyer may reject the goods and require Contractor to either correct them without charge or deliver them at a reduced price which is equitable under the circumstances. If Contractor is unable or refuses to correct such goods within a time deemed reasonable by the Buyer, the Buyer may cancel the order in whole or in part. Nothing in this paragraph will adversely affect the Buyer's rights including the rights and remedies associated with revocation of acceptance under the Uniform Commercial Code.

29. PATENTS, COPYRIGHTS, ETC.: The Contractor will release, indemnify and hold the Buyer, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.

30. ASSIGNMENT/SUBCONTRACT: Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State Director of Purchasing.

31. DEFAULT AND REMEDIES: Any of the following events will constitute cause for the STATE to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. The STATE will issue a written notice of default providing a period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for liquidated or other damages. If the default remains, after Contractor has been provided the opportunity to cure, the STATE may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages; 4. Suspend Contractor from receiving future proposal solicitations.

32. FORCE MAJEURE: Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The STATE may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

33. HAZARDOUS CHEMICAL INFORMATION: The Contractor will provide one set of the appropriate material safety data sheet(s) and container label(s) upon delivery of a hazardous material to the user agency. All safety data sheets and labels will be in accordance with each participating state's requirements.

34. NON-COLLUSION: By signing the proposal, the offeror certifies that the proposal submitted has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the request for proposal, designed to limit independent proposing or competition.

35. PUBLIC INFORMATION: Contractor agrees that the contract will be a public document, as far as distribution of copies, and Contractor gives the STATE express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, or copyright information.

36. CONFLICT OF TERMS: In the event of any conflict between these standard terms and conditions and any special terms and conditions which follow, the special terms and conditions will govern.

37. LOCAL WAREHOUSE AND DISTRIBUTION: The Contractor will maintain a reasonable amount of stock warehoused in the State of Utah for immediate or emergency shipments. Shipments are to be made in the quantities as required by the various ordering agencies. Orders for less than the minimum specified amount will have transportation charges prepaid by the Contractor and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered will be shipped without charge.

Revision date: 3/14/2002